Mr. Bruce

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DEPARTMENT OF STATE

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Memorandum of Conversation

DATE: November 26, 1952

SUBJECT: Subpoena of Anglo-Iranian Oil Company's records located in London and related matters in Anti-Trust Oil Case

PARTICIPANTS: Mr. Goldthwaite Dorr, representing Socony Vacuum Oil Company
Mr. John Cahill, representing Standard Oil Company of California
Mr. S.A.L. Morgan, representing the Texas Company

U--Mr. Bruce, Under Secretary of State
E--Mr. Linder
L--Mr. Fisher

COPIES TO:

L--Mr. Bruce ✓
E--Mr. Linder
S/P--Mr. Nitze
NEA--Mr. Byroade
EUR--Mr. Perkins
L/E--Mr. Metzger
Department of Justice--Mr. Emmerglick

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Mr. Dorr, acting as the spokesman of the group, indicated that they were speaking only for their own companies, but that the other companies had an interest in the discussion and they wished to be free to tell the other companies the result of the discussions.

Mr. Dorr stated that they wished to discuss the problem of the potential foreign policy implications which might follow from action to comply with the terms of the judge's order in the recent anti-trust case brought by the Government against the oil companies. Mr.Dorr pointed out that under the terms of the order, as it applied to documents held abroad which they might be precluded from taking out of the various countries by the law of those countries, they must show: (1) that the foreign law in fact prohibits the transmission of documents; (2) that they had in good faith endeavored to obtain the permission of the foreign governments for obtaining the documents; and (3) what financial interest, if any, the various sovereigns had in the companies whose documents were affected.

They indicated that they were proceeding to comply with the order and, on the first point, were making studies of foreign law. They mentioned that in many countries it was difficult to make a showing as to the foreign law because the foreign law was what the sovereign happened to feel at the time. The problem arose with reference to the second and third points. They pointed out that in two countries--India and Pakistan--where they had made approaches along this line, the foreign governments had indicated that if an approach were to be made to obtain a waiver of the requirements of law relating to documents of

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of this character, an approach should be made through diplomatic channels rather than by the companies themselves. They further indicated that the problem arose because many of the documents which might come within the scope of the subpoena related to conversations between officials of the company and officials of the various governments affected; that these often contained references by the officials of the foreign governments concerning other officials of those governments, regarding relations between their own countries and other countries, including, of course, the relations between their own countries and the United States. Also included were references to the operations of the companies in the country concerned. They expressed concern lest a request for exportation of these documents might lead to demand by the countries concerned that they be permitted to examine the documents themselves, and that such examination might have far-reaching and explosive effects. They indicated this effect might be aggravated if the request were not only for permission to export documents, but for an indication by the foreign sovereigns of precisely what their financial interest was in the operations of the company. Mr. Dorr said that there would be no difficulty, of course, in indicating the extent to which foreign sovereigns, as a matter of record, were interested in these various companies. He indicated that there might be some difficulty if the companies themselves attempted to go further than that and to inquire as to whether there were any other collateral interests on the part of the foreign sovereign, whether by holding of stock dummies or in any other way. In any event, Mr. Dorr stated that a request by the companies which would be based on the pendency of an investigation conducted by a grand jury of the United States, whether it was made by a private company or not, and the very fact that an official request was made by a private company might cause some confusion. Mr. Dorr ended his presentation of the problem by saying that they were not asking us for anything, but merely bringing this matter to our attention so that the State Department could decide what, if anything, it wishes to do or whether it wished to assume any responsibilities for the actual request for permission which would make it possible to comply with the order of the District Court.

The representatives of the State Department raised the question of whether the screening arrangements which were being worked out, under which the documents in question were to be screened for security, would solve the problem involved. The representatives of the companies replied that they felt that the screening arrangements could not do so, inasmuch as there would still remain the problem of getting the documents out of the country into the United States. It would still be necessary to go to the sovereigns concerned and describe the documents and to ask for permission. This in turn would raise the difficulties which had been referred to. The representatives of the companies felt that these difficulties might be raised even where there were copies of the documents concerned already in the United States, as they felt that where a document relates to a conversation between representatives of the companies and various sovereign governments, good faith would require them to advise the sovereign governments before the documents were submitted to the grand jury, even though this was done through the screening mechanism being set up.

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During the course of the discussion the representatives of the companies referred to the letter addressed by the court to the Department of State with respect to the problems presented by the order of the British Minister of Fuel and Power to the Anglo-Iranian Company. They indicated that this letter showed that the court was sensitive to problems of foreign policy and suggested that it might be possible for the Department of State to advise the court on the foreign policy problems with which they were faced. The representatives of the Department replied that if the court felt that the problems were such that it needed advice, as it apparently did in the case of the Anglo-Iranian Company, the Department was of course at the Court's disposal, but that it did not seem appropriate to the Department on its own initiative to become involved in this matter in any way other than through the represenative of the U. S. Government appearing in court.

At the conclusion of the discussion, Mr. Bruce indicated that the Department would of course give the matter further thought, but he suggested that in the first place the company should continue doing what he understood they had been doing, that is, to comply in good faith with the court order and the various terms and conditions laid down in it. He stated that it did not seem to him that there would be any objection to the companies' bringing to the attention of the court those specific arrangements where the action they would be required to take would have the serious foreign policy implications that they had set forth. They could then bring this to the attention of the court in a hearing held in chambers. It seemed to Mr. Bruce that it would not be appropriate for this hearing to be held ex parte, but it might be appropriate to have a hearing in chambers in which the representative of the government and the companies could discuss this question with the utmost frankness, without any fear that the mere discussion of the security aspects of the problem would in itself have adverse repercussions. If as result of this discussion the judge felt it advisable to address further letters to the Department of State along the general lines of the letter in the Anglo-Iranian case, the Department would of course do its best to comply with the judge's wishes.

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